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EXAMINER

WU, QING YUAN

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/625,447	Applicant(s) MITTAL, GAURAV	
	Examiner Qing-Yuan Wu	Art Unit 2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-12 and 15-40 are pending in the application.
2. Prosecution on the merits of this application is reopened after further considering the arguments presented by applicant in the appeal brief submitted by applicant on 2/21/08, the prior art of record applied in the rejection and further rejecting claims 30-34 under 35 U.S.C. 101.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 30-34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

5. Claims 30-34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter because they are lacking utilities. More specifically, these claims recite the limitation “a computer-readable medium storing computer-executable instructions.” but failed to indicate what permits the instructions to be realized (i.e. the computer executable code or instructions must be stored in a computer readable medium, and executed by a computer element to perform control of a technical procedure). See MPEP 2106.01.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-8, 10-12, 16-32 and 35-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Gibbons et al (hereafter Gibbons) (U.S. Publication 2004/0034853).

8. Gibbons was cited in previous office actions.

9. As to claim 8, Gibbons teaches a method, comprising:

receiving at a client device a request for information describing available applications [user initiating a request through a Download Application (DA) of a Mobile Terminal (MT), pg. 6, paragraph 74, lines 5-9 and paragraph 75];

generating by the client device in a wireless browser independent manner an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application [the DA residing in the MT retrieving a list of available Download Objects (DOs), therefore, the request is generated by the DA, the DA is not the wireless browser of the mobile terminal. There is no indication, suggestion, or hint that the DA is a browser, therefore it is the office's position that the DA is a wireless browser independent device application, pg. 4, paragraph 50, lines 14-17 and paragraph

56; pg. 6, paragraphs 75-76, 80-81; Fig. 2; Used of BREW, WAP, and Wireless Application Descriptor (WAD), pg. 1, paragraphs 4 and 7], the application descriptor including attributes to allow a determination by the client device as to whether the respective application is suitable for the client device [WAD specifies metadata for DOs, metadata is specified as metadata element, and metadata element attributes include size of the DO and DO storage requirement, in which the (Application Manager (AM) of the) mobile terminal used to determine whether it has enough storage space to store the DO to be downloaded before downloading, pg. 5, paragraphs 61-63, 71, Table 1; pg. 14, claims 7-10]; and

in response to the initiation request, receiving from an application server computer through a network server computer at least one application choices and corresponding links [pg. 4, paragraphs 52-54; Figs. 1-2; pg. 6, paragraph 81].

10. As to claim 1, Gibbons teaches a method, comprising:

receiving from a client device an initiation request for information describing available applications [from the perspective of the domain where the download object is downloaded from and the perspective of the Application Download Server (hereafter ADS), pg. 4, paragraph 54; pg. 6, paragraph 80; Figs. 1-2; user initiating a request through a DA of a MT, pg. 6, paragraph 74, lines 5-9 and paragraph 75];

responsive to the initiation request, retrieving for each available application information describing a respective application and a link to an application descriptor for the respective application [the DA residing in the MT retrieving a list of available DOs and a link with a URI to a WAD, paragraph 56; pg. 6, paragraphs 75-76, 80-81; Fig. 2], the application descriptor

including attributes to allow a determination by the client device as to whether the respective application is suitable for the client device [WAD specifies metadata for DOs, metadata is specified as metadata element, and metadata element attributes include size of the DO and DO storage requirement, in which the (AM of the) mobile terminal used to determine whether it has enough storage space to store the DO to be downloaded before downloading, pg. 5, paragraphs 61-63, 71, Table 1; pg. 14, claims 7-10]; and

transmitting from at least one server computer in wireless browser independent manner the application information and the link to the client device [the DA residing in the MT retrieving a list of available DOs, paragraph 56; pg. 6, paragraphs 75-76, 80-81; Fig. 2D; the DA is not the wireless browser of the mobile terminal. There is no indication, suggestion, or hint that the DA is a browser, therefore it is the office's position that the DA is a wireless browser independent device application, pg. 4, paragraph 50, lines 14-17 and paragraph 56; pg. 6, paragraphs 75-76, 80-81; Fig. 2; Used of BREW, WAP, and WAD, pg. 1, paragraphs 4 and 7; pg. 4, paragraphs 52-54; Figs. 1-2; DO is downloaded from protective domain, pg. 6, paragraph 81].

11. As to claim 2, Gibbons teaches the invention as claimed including receiving from the client device a request for an application descriptor, said request comprising a link to the application descriptor; and transmitting said application descriptor to said client device [pg. 6, paragraph 76, lines 4-5 and paragraph 80].

12. As to claim 3, this claim is rejected for the same reason as claim 2 above. In addition, Gibbons teaches retrieving the selected application; and transmitting the selected application to the client device [pg. 6, paragraph 81].

13. As to claim 4, Gibbons teaches the invention as claimed including wherein the client device is one of a computer, a handheld device, a personal digital assistant, and a wireless mobile telephone [pg. 1, paragraph 5].

14. As to claim 5, Gibbons teaches the invention as claimed including wherein the at least one server computer comprises at least one of a network server and an application server [pg. 4, paragraph 57, lines 8-10].

15. As to claim 6, this claim is rejected for the same reason as claim 5 above.

16. As to claim 7, Gibbons teaches the invention as claimed including wherein the link is one of a uniform resource locator and a uniform resource identifier [pg. 5, paragraph 64; pg. 6, paragraph 76].

17. As to claim 35, Gibbons teaches the invention as claimed including wherein the determination by the client device includes whether the client device has a suitable operating environment for the respective application [pg. 1, paragraph 11; pg. 5, paragraph 69].

18. As to claim 36, Gibbons teaches the invention as claimed including wherein the determination by the client device includes whether the client device has sufficient memory to store and execute the respective application [pg. 2, paragraph 14, lines 17-20; pg. 5, paragraph 59, lines 2-4; Tables 1 and 3].

19. As to claim 37, Gibbons teaches the invention as claimed including wherein the determination by the client device includes whether a display for the client device is compatible with the respective application [pg. 2, paragraph 14, lines 8-15; pg. 9, paragraph 120, line 10; Table 3].

20. As to claim 16, this claim is rejected for the same reason as claims 1 and 8 above. In addition, Gibbons teaches a wide area network interconnecting the at least one server computer and the client device [100, Fig. 1].

21. As to claim 17, this claim is rejected for the same reason as claims 2 and 3 above.

22. As to claims 18-21, these claims are rejected for the same reason as claims 4-7 above.

23. As to claim 26, this claim is rejected for the same reason as claim 8 above. In addition, Gibbons teaches an input device [pg. 9, paragraphs 111 and 113]; output device [368, 375, Fig. 3]; memory for storing instructions and a processor [pgs. 1-2, paragraphs 12, 14 and 28; abstract].

24. As to claim 27, this claim is rejected for the same reason as claims 1, 6 and 26 above. In addition, Gibbons teaches a content/application download model [pg. 1, paragraphs 6-7; pg. 7, paragraph 87].

25. As to claim 28, Gibbons teaches the invention as claimed including determining from the application descriptor whether an application is suitable for downloading; and upon a determination that the application is suitable for downloading to the client device, downloading the application [pg. 6, paragraphs 79-81; pg. 9, paragraph 119; Figs. 6 and 8].

26. As to claim 29, this claim is rejected for the same reason as claim 7 above.

27. As to claim 22, this claim is rejected for the same reason as claims 1 and 26 above.

28. As to claims 23-25, these claims are rejected for the same reason as claims 2-4 above.

29. As to claim 10, this claim is rejected for the same reason as claim 28 above.

30. As to claim 11, this claim is rejected for the same reason as claim 4 above.

31. As to claim 12, this claim is rejected for the same reason as claim 7 above.

32. As to claims 38-40, these claims are rejected for the same reason as claims 35-37 above.

33. As to claim 30, this claim is rejected for the same reason as claim 1 above.

34. As to claim 31, this claim is rejected for the same reason as claim 3 above.

35. As to claim 32, this claim is rejected for the same reason as claim 8 above.

Claim Rejections - 35 USC § 103

36. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

37. Claims 9, 15 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbons as applied to claims 1, 8 and 16 above.

38. As to claim 9, this claim is rejected for the same reason as claim 27 above. In addition, Gibbons does not specifically teach displaying at the client device the application requested. However, Gibbons disclosed displaying information about DO (applications) [pg. 4, paragraph 56; pg. 6, paragraph 76], executing applications [pg. 1, paragraph 6] and icons that can be display on a GUI of a mobile device to represent application [pg. 9, paragraph 117; pgs. 9-10,

Art Unit: 2195

paragraphs 122, 125; pg. 11, paragraph 131-132]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to further improve on the teaching of Gibbons by displaying application downloaded at the client device to provide a visual indication to user for the ease of visually invoking the application for execution.

39. As to claim 15, this claim is rejected for the same reason as claim 9 above. In addition, Gibbons teaches wherein the content/application download model is one of java application management system, binary runtime environment for wireless, and CoD [pg. 1, paragraph 7; pg. 7, paragraph 87].

40. As to claims 33-34, these claims are rejected for the same reason as claims 9 and 15 above.

Response to Arguments

41. Applicant's arguments filed 2/11/08 have been fully considered but are moot in view of the new ground of rejection.

42. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qing-Yuan Wu whose telephone number is (571)272-3776. The examiner can normally be reached on 8:30am-6:00pm Monday-Thursday and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/

Supervisory Patent Examiner, Art Unit 2195

/Qing-Yuan Wu/

Examiner, Art Unit 2194